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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,192	10/13/2005	Masayuki Sakata	Q90259	2211
23373 7590 06/20/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER BATISTA, MARCOS	
			ART UNIT 4134	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/553,192

**Applicant(s)**

SAKATA, MASAYUKI

**Examiner**

MARCOS BATISTA

**Art Unit**

4134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 10/13/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it contains the legal term "means." Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

2. Claims 19 and 23-25 are objected to because of the following informalities:

In claim 19, lines 3, ";" should be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language.

This claim is an omnibus type claim. Claim 35 appears to be claiming a program to

carry out the process of the claimed invention, but it is not clear by the claim language whether a method, a system or a program is being claimed.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlsson et al. (US 20020068571 A1), hereafter "Ohlsson," in view of Metzler et al. (WO 03/003677 A1), hereafter "Metzler."

The International Application (WO 03/003677 A1) to Metzler was filed in German, however, examiner is relying on patent (US 7260088 B2), available in English, to make this rejection.

Consider claim 19, Ohlsson discloses a mobile communication system, comprising: a mobile terminal unit (30) in which a calling process and a Node b (28) utilized for cell setting are controlled by the same protocol architecture (see fig. 6, pars. 0089 lines 1-6, 0090 lines 1-3); a radio base station(28) which communicates with said mobile terminal unit via a radio channel (see fig. 6, par. 0089 lines 1-6); and a radio base station replacement control apparatus which controls replacement of said radio base station (see fig. 1A #100, fig. 3, pars. 0041 lines 5-11, 0062 lines 4-11 – The

**handover unit 100 controls the replacement of base station as mobile station 30 moves from C1 to C2 ).**

Ohlsson however, does not particular refer to a radio controller which controls said radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating said radio base station under the control and controlling transfer of user data.

Metzler, in analogous art, teaches a radio controller which controls said radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating said radio base station under the control and controlling transfer of user data (see fig. 1, col. 3 lines 57-63 – RNC2 functionalities is device into two separate units: UPS and RCS. The UPS controls the user data and the RCS control the signal and resources of the base station).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Ohlsson and have it include teaches a radio controller which controls said radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating said radio base station under the control and controlling transfer of user data, as taught by Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (see fig. 1, col. 3 lines 57-63).

Consider claim 20, Ohlsson discloses a mobile communication system, comprising: a mobile terminal unit (30) in which a calling process and a Node b (28) utilized for cell setting are controlled by the same protocol architecture **see fig. 6, pars. 0089 lines 1-6, 0090 lines 1-3**; a radio base station which communicates with said mobile terminal unit via a radio channel (**see fig. 6, par. 0089 lines 1-6**); and a radio base station replacement control apparatus which controls replacement of said radio base station (**see fig. 1A #100, fig. 3, pars. 0041 lines 5-11, 0062 lines 4-11 – The handover unit 100 controls the replacement of base station as mobile station 30 moves from C1 to C2** ).

Ohlsson however, does not particular refer to a radio controller which controls said radio base station, and is physically separated into first control means for performing control independent of a radio transmission scheme and second control means for accommodating said radio base station under the control and performing control depending on a radio transmission scheme.

Metzler, in analogous art, teaches a radio controller which controls said radio base station, and is physically separated into first control means for performing control independent of a radio transmission scheme and second control means for accommodating said radio base station under the control and performing control depending on a radio transmission scheme (**see fig. 1, col. 3 lines 57-63, col. 4 lines 24-29 and 65-67, col. 5 lines 1-2**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Ohlsson and have it include teaches a

radio controller which controls said radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating said radio base station under the control and controlling transfer of user data, as taught by Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (**see fig. 1, col. 3 lines 57-63**).

Consider claims 21, 22, 27, 28 and 29, these claims discuss the same subject matter as claim 20. Therefore, they have been analyzed and rejected based upon the rejection to claim 20.

Consider claim 23, Ohlsson as modified by Metzler teaches claim 19, Ohlsson also teaches a mobile communication system according to claim 19, further comprising a network which connects said first control means, second control means, and radio base station replacement control apparatus (**see fig. 1A, par. 0041 lines 1-3**).

Consider claim 24, Ohlsson as modified by Metzler teaches claim 23, Ohlsson also teaches wherein said radio base station replacement control apparatus comprises means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (**see par. 0045 lines 1-8**).

Consider claim 25, Ohlsson as modified by Metzler teaches claim 23, Ohlsson also teaches wherein said radio base station replacement control apparatus further comprises means for notifying said first control means of identification information of said radio base station as an object of replacement and identification information of said second control means as an accommodation destination (see par. 0045 lines 1-8).

Consider claim 26, this claim discusses the same subject matter as claim 19. Therefore, it has been analyzed and rejected based upon the rejection to claim 19.

Consider claim 30, Ohlsson as modified by Metzler teaches claim 26, Metzler also teaches wherein said first and second control means are connected across a network (see col. 3 lines 57-60). It would have been obvious to have modified Ohlsson's invention with the teaching of Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (see fig. 1, col. 3 lines 57-63).

Consider claim 31, Ohlsson as modified by Metzler teaches claim 26, Ohlsson also teaches further comprising means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 32, Ohlsson as modified by Metzler teaches claim 26, Ohlsson also teaches further comprising means for notifying said first control means of identification information of said radio base station as an object of replacement and identification information of said second control means as an accommodation destination(see par. 0045 lines 1-8).

Consider claim 33, Ohlsson discloses a radio base station replacement control method in a communication system which comprises a mobile terminal unit (30) in which a calling process and a Node b (28) utilized for cell setting are controlled by the same protocol architecture (see fig. 6, pars. 0089 lines 1-6, 0090 lines 1-3), a radio base station which communicates with the mobile terminal unit via a radio channel (see fig. 6, par. 0089 lines 1-6), a radio base station replacement control apparatus which is provided physically independently of the first and second control means and controls replacement of the radio base station (see fig. 1A #100, fig. 3, pars. 0041 lines 5-11, 0062 lines 4-11 – **The handover unit 100 controls the replacement of base station as mobile station 30 moves from C1 to C2**), wherein the method comprises the step of notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate the radio base station (see par. 0045 lines 1-8).

Ohlsson however, does not particular refer to a radio controller which controls the radio base station, and is physically separated into first control means for controlling

transfer of signaling and second control means for accommodating the radio base station under the control and controlling transfer of user data.

Metzler, in analogous art, teaches a radio controller which controls the radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating the radio base station under the control and controlling transfer of user data (**see fig. 1, col. 3 lines 57-63 – RNC2 functionalities is device into two separate units: UPS and RCS. The UPS controls the user data and the RCS control the signal and resources of the base station**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Ohlsson and have it include teaches a radio controller which controls the radio base station, and is physically separated into first control means for controlling transfer of signaling and second control means for accommodating the radio base station under the control and controlling transfer of user data, as taught by Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (**see fig. 1, col. 3 lines 57-63**).

Consider claim 34 Ohlsson as modified by Metzler teaches claim 33 Ohlsson also teaches further comprising the step of notifying the first control means of identification information of the radio base station as an object of replacement and identification information of the second control means as an accommodation destination (see par. 0045 lines 1-8).

Consider claim 35, this claim discusses the same subject matter as claim 33. Therefore, it has been analyzed and rejected based upon the rejection to claim 33.

Consider claim 36, this claim discusses the same subject matter as claim 25. Therefore, it has been analyzed and rejected based upon the rejection to claim 25.

Consider claim 37, Ohlsson as modified by Metzler teaches claim 20, Ohlsson also teaches further comprising a network which connects said first control means, second control means, and radio base station replacement control apparatus (see fig. 1A, par. 0041 lines 1-3).

Consider claim 38, Ohlsson as modified by Metzler teaches claim 21, Ohlsson also teaches further comprising a network which connects said first control means, second control means, and radio base station replacement control apparatus (see fig. 1A, par. 0041 lines 1-3).

Consider claim 39, Ohlsson as modified by Metzler teaches claim 22, Ohlsson also teaches further comprising a network which connects said first control means, second control means, and radio base station replacement control apparatus (see par. 0045 lines 1-8).

Consider claim 40, Ohlsson as modified by Metzler teaches claim 20, Ohlsson also teaches wherein said radio base station replacement control apparatus comprises means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 41, Ohlsson as modified by Metzler teaches claim 21, Ohlsson also teaches wherein said radio base station replacement control apparatus comprises means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 42, Ohlsson as modified by Metzler teaches claim 22, Ohlsson also teaches wherein said radio base station replacement control apparatus comprises means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 43, Ohlsson as modified by Metzler teaches claim 23, Ohlsson also teaches wherein said radio base station replacement control apparatus comprises means for notifying, in response to an external trigger, a radio base station as an object

of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 44, Ohlsson as modified by Metzler teaches claim 27, Metzler also teaches wherein said first and second control means are connected across a network (see col. 3 lines 57-60). It would have been obvious to have modified Ohlsson's invention with the teaching of Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (see fig. 1, col. 3 lines 57-63).

Consider claim 45, Ohlsson as modified by Metzler teaches claim 28 Metzler also teaches wherein said first and second control means are connected across a network (see col. 3 lines 57-60). It would have been obvious to have modified Ohlsson's invention with the teaching of Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (see fig. 1, col. 3 lines 57-63).

Consider claim 46, Ohlsson as modified by Metzler teaches claim 29 Metzler also teaches wherein said first and second control means are connected across a network (see col. 3 lines 57-60). It would have been obvious to have modified Ohlsson's invention with the teaching of Metzler. The motivation would have been in order to allow signaling and user data to be administrated from two different servers, which provide a high level of manageability and network control (see fig. 1, col. 3 lines 57-63).

Consider claim 47, Ohlsson as modified by Metzler teaches claim 27, Ohlsson also teaches further comprising means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 48 Ohlsson as modified by Metzler teaches claim 28 Ohlsson also teaches further comprising means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station(see par. 0045 lines 1-8).

Consider claim 49 Ohlsson as modified by Metzler teaches claim 29 Ohlsson also teaches further comprising means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

Consider claim 50, Ohlsson as modified by Metzler teaches claim 26, Ohlsson also teaches further comprising means for notifying, in response to an external trigger, a radio base station as an object of replacement of identification information of second control means which is to newly accommodate said radio base station (see par. 0045 lines 1-8).

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lun-Yi Lao can be reached at (571) 272-7671. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Marcos Batista*  
/M. B./  
06/13/2008

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/LUN-YI LAO/

Supervisory Patent Examiner, Art Unit 4134